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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,177	11/20/2003	A. L. Pepper Aasgaard	ASA 02-3-2	9332
23531	7590	09/09/2004	EXAMINER	
SUITER WEST PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,177

Applicant(s)

AASGAARD, A. L. PEPPER

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities:

Claim 15 is dependent on claim 2, however, Examiner believes that claim 15 is intended to be dependent on claim 14 and therefore, it is examined as such.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 9, 13, 14, 21-24, 26-29, 31, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (U. S. Patent No. 5,097,612).

Williams teaches an emergency signaling device (14) for an automobile (10) having a trunk (12) including a trunk opening and a trunk lid hinged to move between a closed position for enclosing the trunk opening and an opened position for providing access to the trunk via the trunk opening (Fig. 5), comprising: a substrate (16), disposed in the trunk of the automobile, the substrate for folding between a folded position when the trunk lid is in the closed position and an extended position when the trunk lid is in the opened position (Col 3, lines 26-55); and indicia (18) disposed on the substrate for conveying a message when the substrate is unfolded to the extended position, wherein, when the substrate is in the extended position, the indicia disposed

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on the substrate are positioned so as to be generally visible to motorists approaching the automobile (Figs. 5 and 6).

Williams teaches the emergency signaling device wherein the indicia comprise at least one light (22, 24, 26) disposed on the substrate.

Williams teaches the emergency signaling device wherein the substrate is flexible (Col 3, lines 43-55).

Williams teaches the emergency signaling device wherein the substrate further comprises fasteners for fastening the substrate to the trunk lid and within the trunk for unfolding the substrate to the extended position when the trunk lid is in the opened position (Col 4, lines 23-50).

Williams teaches an emergency signaling device (14), comprising: a flexible substrate (16) foldable between at least a folded position and an unfolded position; and a plurality of lights (22, 24, 26) disposed on the flexible substrate forming indicia for displaying a message; wherein the flexible substrate is folded to the folded state for storage and unfolded to the unfolded state for display of the message (Col 2, lines 7-39).

Williams teaches the emergency signaling device comprising a power supply for powering the plurality of lights, wherein the automobile comprises an electrical system, the power supply receiving electrical power from the electrical system (Col 5, lines 18-28).

Williams teaches an emergency signaling device (14) for a vehicle, comprising: a substrate (16) for being disposed in the vehicle, the substrate folding between a folded position and an extended position; and indicia (18) disposed on the substrate for conveying a message when the substrate is unfolded to the extended position, wherein, when the substrate is in the

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extended position, the indicia disposed on the substrate are positioned so as to be visible to motorists generally approaching the vehicle (Col 2, lines 7-39).

Williams teaches the emergency signaling device wherein the indicia comprise at least one light (22, 24, 26) disposed on the substrate.

Williams teaches the emergency signaling device comprising a power supply for providing electrical power to the light (Col 5, lines 18-28).

Williams teaches the emergency signaling device wherein the power supply comprises a battery coupled to the substrate (Col 5, lines 18-28).

Williams teaches the emergency signaling device wherein the vehicle includes an electrical system, and wherein the battery is charged from the electrical system (Col 5, lines 18-28).

Williams teaches the emergency signaling device wherein the vehicle comprises an electrical system and the power supply receives power from the electrical system (Col 5, lines 18-28).

Williams teaches an emergency signaling device for an automobile having a trunk including a trunk opening and a trunk lid hinged to move between a closed position for enclosing the trunk opening and an opened position for providing access to the trunk via the trunk opening, comprising: means, disposed in the trunk of the automobile, for folding between a folded position when the trunk lid is in the closed position and an extended position when the trunk lid is in the opened position; and means, disposed on the folding means, for conveying a message when the folding means is in the extended position, wherein, when the folding means is in the

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extended position, the message conveying means disposed on the folding means is positioned so as to be generally viewable from behind the automobile (Col1, line 55-Col 2, line 45).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-7, 15-18, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Steffan et al. (U. S. Patent No. 5,905,434).

Williams discloses the emergency signaling device as described in paragraph 3; wherein the trunk of the automobile has a remote release device wherein the automobile has a hazard flasher system (although Williams does not specifically disclose that the automobile has a remote trunk release and a hazard flasher system, these are well known safety features on cars, which have been used on cars before 1992 which is the date of the Williams patent).

Williams does not disclose the emergency signaling device wherein the automobile has a hazard flasher system in connection with the emergency signaling device; and wherein the light comprises a light emitting diode.

Steffan et al. discloses an emergency signaling device wherein the automobile has a hazard flasher system and wherein the hazard system is integrated with the emergency signaling device (Fig. 10); and wherein the light comprises a light emitting diode (Col 2, lines 40-53 and Col 3, lines 1-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Williams to include a connection between the hazard flashing system and the emergency signaling device and wherein the light comprises a light emitting diode, so that the emergency signaling device lights could be easily controlled from within the automobile and be set with a priority and so that the lights would last over a long period of time (Steffan et al. Col 2, line 40-Col 3, line 25).

6. Claims 8, 10-12, 19, 20, 30, 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams and Steffan et al. as applied to claims 1-7, 9, 13-18, 21-29, 31, 35, and 36 above, and further in view of Leibowitz (U. S. Patent No. 6,037,866).

Williams and Steffan et al. disclose the emergency signaling device as described above in paragraph 5.

Williams and Steffan et al. do not disclose the emergency signaling device wherein the indicia comprise reflective material disposed on the substrate; wherein the substrate is removable from the trunk for use at a location remote from the automobile; comprising a hazard flasher system for flashing lights disposed on the automobile when the hazard flasher system is turned on and a remote trunk release for causing the trunk lid to move to the opened position, and wherein the substrate is unfolded to the extended position when the remote trunk release causes the trunk lid to move to the opened position while the hazard flasher system is on; wherein the substrate remains folded in the folded position when the remote trunk release causes the trunk lid to move to the opened position while the hazard flasher system is off.

Leibowitz discloses an emergency signaling device wherein the indicia comprise reflective material disposed on the substrate (Col 3, lines 47-55); wherein the substrate is

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removable from the trunk for use at a location remote from the automobile (Col 4, lines 17-27); comprising a hazard flasher system for flashing lights disposed on the automobile when the hazard flasher system is turned on and a remote trunk release for causing the trunk lid to move to the opened position, and wherein the substrate is unfolded to the extended position when the remote trunk release causes the trunk lid to move to the opened position while the hazard flasher system is on; wherein the substrate remains folded in the folded position when the remote trunk release causes the trunk lid to move to the opened position while the hazard flasher system is off (Col 2, lines 1-33, Col 3, lines 1-37, and Col 4, lines 8-16, lines 28-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the emergency signaling device of Williams and Steffan et al. to have reflective material and to be remotely activated, as taught by Leibowitz, so that the emergency device could be even more easily detected by traffic, and so that the emergency signaling device could be deployed while a driver remains safely within the automobile.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose emergency signaling devices Libhart et al. (U. S. Patent No. 6,412,203), Yang (U. S. Patent No. 6,181,243), Alexander (U. S. Patent No. 6,124,783), Kleiman (U. S. Patent No. 5,636,462), Collier (U. S. Patent No. 5,450,058), Halligan (U. S. Patent No. 5,103,205), Killinger (U. S. Patent No. 5,010,319), Laschke et al. (U. S. Patent No. 4,821,668), Foster (U. S. Patent No. 4,607,444), and Mosch (U. S. Patent No. 3,763,585).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
September 6, 2004



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